

LAKE COUNTY PLANNING BOARD
June 8, 2011
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Lisa Dumontier, Harlan Gipe, Sigurd Jensen, Steve Rosso, John Fleming, Janet Camel, Brian Anderson

STAFF PRESENT: Joel Nelson, LaDana Hintz, Robert Costa, Karl Smithback, Lita Fonda

Bob Kormann called the meeting to order at 7:00pm. He welcomed Karl Smithback and Robert Costa, new planners.

Joel Nelson noted that the Lake Mary Ronan zoning district and density map amendments were removed from this agenda.

KERAND ESTATES MAJOR INTRODUCTORY

LaDana Hintz presented the staff report. (See attachments to minutes in the June 2011 meeting file for staff report.) She offered a few corrections and additions. For Proposed Land Uses in IV on pg. 1, it should read 7 rather than 6 residential and/or commercial tracts. On pg. 7 at the end of the second-to-last paragraph, the last sentence should say, "Required road improvements will probably be a seal coat on Bouchard Road." LaDana pointed out the format of the staff report changed somewhat to work better with the revised subdivision regulations. In #3 on pg. 10, 23 replaced 26 for the number of wells in the second sentence. With the new regulations, areas may only be considered buildable where groundwater is greater than 4 feet from the surface. Some of the monitoring showed groundwater within 4 feet of the surface. If the groundwater was within 4 feet, the applicants needed to address that. They would need to address whether or not they could put a drainfield on there too. LaDana didn't think these issues were adequately addressed yet. For L.1, pg. 13, a correction to Highway 93 from Highway 35 was noted.

Bob asked about the wetlands. LaDana described the problem with the wetlands was the water came from somewhere to the east, under the highway. She also looked at aerial photos and topo maps, but wasn't sure if it was irrigation-related or some kind of stream channel. Bob asked if DEQ was involved in the drainfield. LaDana affirmed, and added if they didn't have a big enough lot on which to even place these things, maybe the subdivision needed to be redesigned. We were addressing the lot layout: can a lot even be developed there? Bob referred to the definition of a unit in materials provided by Marc, and an example of a definition of a unit. He asked if elderly parents could live in the guest house. LaDana replied they probably needed a variance to the density requirement. There were other exceptions for family members, but this was a 5-acre per unit density area and that wouldn't fall under it. John didn't remember that the Board had dealt with projects that had lots, and multiple units within the lots, and then the Board used the units for the density count. Joel thought there'd been one or two subdivisions with something existing so they were approved with a commercial unit and an existing residence for two units on a lot. They hadn't created new lots with a commercial unit and a residential unit. It seemed like it should be subject to subdivision created by rent or lease.

Steve referred to the layout of the septic fields and mixing zones. He had questions on the layout. LaDana responded that she didn't know the answers; that got determined during the Environmental Health review. Brian gave some explanation. Joel said it was pretty common to see the mixing zones cross the buildings. It crossed the well isolation zone on lot 6, which he didn't think was correct. LaDana said there were already issues on that one. They had to have a 100-foot setback from the highway. It really restricted that lot. A 30-foot easement was on the west side of that lot. Steve asked if the driveway to the residential lot could be extended down the easement to a commercial development farther to the south. LaDana explained the easement shouldn't be used for that, since it was for lot 7. Steve checked that the same easement couldn't be used by the other property. Joel wasn't sure that it couldn't, but it would then be deemed a road. He wasn't sure you couldn't use the easement for access to lots 6 and 7. LaDana commented that with a 60-foot wide easement, maybe they were thinking of future development of lot 7. If they used the conservation lot bonus, how would they have future development of lot 7? Steve said there was no drawing showing the current access to lot 7 off of Hwy 93. LaDana said it was right over by the house, although it wasn't shown. Steve said if Hwy 93 got developed and grew, the people on lot 7 might want to get their driveway off of [inaudible]. LaDana said maybe, but why would they need a 60-foot wide easement? That sounded like they wanted to divide it later, and have enough easement for a road and utilities. A typical household didn't need a 60-foot easement.

On pg. 11, Steve clarified in the last paragraph prior to #3 that the levels varied between 38 inches and 80 inches (rather than 38 feet and 80 feet).

Janet noted that often with highway projects, they tried to purchase easements if there were alternative options to access off of a county road, which might be why a 60-foot easement was proposed. The landowner might want to sell his approach and get compensated. She didn't know in the SEIS if Bouchard Road was slated for a left-turn bay and a right-turn bay, but if there were commercial lots here, there would be quite a bit more traffic. She didn't know if the SEIS had been provided or if this was mentioned. LaDana said it was difficult to see things on the 8 ½ x 11 diagram she received. It copied poorly, so she didn't include it in the packet.

Janet thought when there was a principle arterial like Hwy 93, you had to have a required setback for the approaches. She asked if that was addressed, for the spacing between intersections. LaDana replied the road supervisor didn't comment on that. He's already approved these three approaches out there. John checked that she was saying the approach on lot 6 might be too close to Hwy 93. Janet asked if it was possible to require the developer to put a 55' buffer area for proposed right-of-way on lot 6 from the drainfield, and then see if you could make things fit. Maybe they could resite and relocate the drainfield. She didn't see the existing drainfield for the existing home. LaDana wasn't sure the location was known. She referred to the information in the report on this topic. Janet asked if the location would be required on the plat. LaDana explained she spoke with Susan Brueggeman, and they would probably be required to install a new system before they went through the DEQ review.

Janet asked if the wetland could be a natural pothole. LaDana responded that it seems to flow through the property from the east to the west, and described further what she'd observed. She

wasn't sure if it was irrigation-related or an unnamed tributary or something else. There had been no comments that told what it was.

Janet referred to pg. 10, #3 about other wells in the area. LaDana said it looked like they'd taken the four sections. It was only wells that were shown as logged. She didn't know the requirement for that, as it came up under the Environmental Health review. Janet asked if there were irrigated properties adjacent to this that could be affected if this was taken out of irrigation. LaDana replied there were no irrigation lines on the lot. It hadn't been irrigated in 50 years.

John thought the design of the project seemed somewhat based on the conservation bonus. Given the available information, did LaDana think this project would qualify for that? LaDana thought not. The 5-acre per unit density didn't allow for a homesite on the conservation lot. They had that right now, so would need a variance to have it. They haven't been to the Board of Adjustment. John asked about the prime land requirement. LaDana noted it hadn't been irrigated for 50 years. She wasn't sure that was prime land. John thought they'd be getting some information on that. He confirmed with LaDana that the size of the commercial unit was 4000 square feet as proposed.

Regarding the wetland in the SE corner, Steve mentioned there was an access driveway to the field at the corner to the south. There was a large culvert with concrete at each end. Water was flowing from the south to the north underneath that today, running into the wetland. For the wetlands in the SW corner, it didn't look like there was much topography. LaDana said on the plat for the SW corner, that may have been some old wetland. She didn't know how much of a wetland was still there. The active wetland was the one in the SE.

Regarding wetland conservation, John asked if an issue was whether you'd made a step towards a conservation bonus. LaDana said it talked about significant wetlands. There were no comments saying these were significant wetlands.

Marc Carstens spoke on behalf of the applicant. He said an easement was dedicated as specific to a lot. It could be isolated to that lot. They would need verbiage isolating it. Typically you'd see exclusive for lot #7. He probably should have labeled that as non-exclusive, where other parties had the right to use it as well. Lot 5 and lot 6 both shared the ability to use that portion of the easement. It seemed like a lot of problems were coming up with the developer wanting to be able to use commercial and/or residential on the same piece of property. He recalled a subdivision contemplated in Arlee that did have a car lot. Joel said this was Garrison, the one he mentioned earlier. Marc thought it contemplated residential and commercial. Joel thought it involved residential or commercial. It may have been less of an issue in that one because it was in a community growth area. Density wasn't so much an issue.

Marc returned to the easement. As long as it wasn't exclusive, it could be used by adjacent lots. He did notice on pg. 4 and pg. 5, that each lot was analyzed with the same final sentence: The development of the lot would be contingent on review and approval by Sanitation and Planning. Did this mean this subdivision if approved could probably create lots but the development lots would have to come back for Planning and Sanitation? LaDana said they would have Planning approval once they got through the process. They would need Sanitation approval. Joel detailed

they would need building notification permits to review site plans and land uses for compliance with the subdivision approval. This would be the review of individual lot development, as they came in. Marc said development meant build-out of the lot versus creation of the lot. Development would be contingent on review and approval by Sanitation and Planning. They didn't know what kind of commercial would be on it, if it were actually contemplated there. The developer wanted to keep his contingencies open for a flexible market place. There was a smattering of commercial activity in the area already, which he detailed.

Marc noted on pg. 6 in the section on Approaches, that the distance between approaches was closed to 370 feet than to 37. LaDana agreed. He referred to Glen Cameron's recommendation (on pg. 7) to go forward with the project as if the highway project wasn't going to happen soon, which he thought was good advice. They have [inaudible] a 100-foot setback on there. They could recontemplate the location of the drainfield.

Janet asked about the overlap of the well isolation zone. Marc said he would ask about this in the morning. With the drainfield on lot 6, Bob asked if the highway changed in the future if that would require a drainfield change. Marc replied if the actual construction encroached over the drainfield, it would have to move. Bob also mentioned a well. Marc said they would look at the layout to see if they could flip flop or get the [inaudible] farther away from the right-of-way, to do something to miss the potentiality on the large lot.

Janet said a concern was if you flip flopped lots 4, 5 and 6, if you had the potential to put both kinds of development on both lots, shouldn't you show the potential layout of both types of development on each lot? LaDana agreed it would be nice to see both for residential and commercial for lots 4, 5 and 6, so they could see that it could be developed and have a drainfield and well.

Janet mentioned to make sure the parking on commercial layout for lot 6 was not within the sight triangle for right turns onto Highway 93. Marc asked for clarification. Janet explained that if a person was approaching Hwy 93 from Bouchard Road, they would need to see clearly to the right, and none of the parking spaces would be in the way. She asked that the sight triangle be shown on a drawing to make sure it didn't conflict.

Janet asked if the existing drainfield for upper lot 7 could be included. Marc didn't think they knew that. Janet said if the well was moved onto lot 6, she was concerned about making sure it wasn't near a drainfield. Marc agreed, but said the existing drainfield was probably not being replaced with the new drainfield. He thought he could demonstrate that. LaDana noted the applicants submitted an application to Environmental Health, and to her knowledge it had not been installed. They monitored the groundwater first, and that's been done. The groundwater from the monitoring results were from 2009.

Marc spoke on the DEQ question. The final review for sanitation was with DEQ and the County sanitation board. That was a requirement. It was another review beyond this board. Public and Planning comments went with that package for review, so they would look at concerns as well. Joel explained that Planning and Environmental Health shared offices, so the planners were exposed to a lot of things. If they saw some straightforward common sense issues that raise large

concerns at the preliminary plat review phase, it didn't hurt to point those out. It would be nice if the public had the opportunity to look at something that was close to the DEQ lot layout.

Janet recalled commenting on a subdivision as a Tribal planner. When she called DEQ to find out about their comments and review, they said Lake County already looked at it, and they were going with what the County recommended. She thought it was important to do a good job because the State was very busy. They couldn't come on-site to look at these and they trusted Lake County to do a good job. She felt as being on the Planning Board, she had a responsibility to try to make sure they got the layout the best that they could. Marc agreed that this was right on a minor subdivision. Lake County was a contracted reviewing agency for DEQ on minor subdivisions. Janet clarified that [her call had been on] a 14-lot subdivision, which was why she was concerned.

Bob checked with Marc if there would be a homeowners association. Marc thought they submitted one. LaDana said it wasn't in the covenants and was probably not in the report. This one didn't have shared infrastructure, although it had covenants. Bob knew there was perimeter fencing. He asked Marc if it would be left to the individual homeowners to do fencing between lot 7 and the rest of the lots. Marc said that was what they'd done in the past.

John asked Marc to address the conservation bonus. Marc said he needed to review it. Planning staff had indicated it needed to go to the Board of Adjustment. The issue seemed to be an existing residence on the part to be set aside. In 20-acre density it stated specifically you could have a home in the set-aside. It didn't specifically say so in the 5-acre density. That item would need to be cleared up, in order for them to go with the conservation set-aside. Bob asked about the other requirements, such as prime land. Marc said prime land [inaudible] is there if irrigated. That was directly out of the book. It was how you wished to interpret it. As far as wetlands, that was another issue. Was the active water in the SE corner a wetland?

Joel was curious about the building located where there was seemingly high groundwater. Wasn't that prevalent throughout the property, for sanitation requirements? Were they talking about building on top of it? Marc compared to Ronan.

Janet asked about the mottling. Marc said mottling could happen in tight soils. It was his experience that, even though you hadn't irrigated in 50 years, soil that's still very tight still saw the annual rainfall and moisture. There wasn't a way to remove mottling coloration out of soils without air exposure. Early irrigation was flood irrigation. Janet mentioned the 4/9/09 date on the groundwater monitoring, and checked that the monitoring went to July. Steve referred to 38 inches and 47 inches on profile #1 in the staff packet attachments. The rest of the monitoring was over 4 feet. Marc explained that mottling was used commonly for water movement in soils.

Bob checked that it made sense to assume in the commercial zone that the driveways might be extended further down. Marc thought they needed to show residential and commercial use there. Bob asked if there were a rule a thumb as far as driving over a drainfield. Marc affirmed. There was a strong rule, more along the lines of 'thou shalt not'.

Bob said he'd feel better about this if there wasn't commercial development on this. It seemed problematic. Brian pointed to the wording where it said 'residential or commercial'. The developer wanted to do both. Marc thought the applicant was keeping an eye out for someone who might want to have a commercial venture next to this house. Joel asked if Marc had come up with a way of defining those uses and including them as permitted. Marc said he was working on that. Bob felt those things didn't work out well. If someone wanted to do commercial, they'd buy lot 6. If they wanted a home, they'd buy lot 1, because it was further from the highway. Marc noted he knew someone who wanted lot 6 for a house. Bob knew of a person who owned an excavation business abutting Minesinger Trail. The person did everything he could to shield the business. When you went by, it looked like junk. It seemed like this was the same situation here: what was tidy to one guy was not to the other. You create a neighborhood where people are pissed off at one another.

Janet suggested someone should check on the left turn bay [inaudible] for Bouchard Road. Marc said that wouldn't change. Janet reported the state said they would require the developer to put the left turn bay in, if it wasn't already included [inaudible].

Simultaneous conversations occurred at this point regarding the highway.

Janet continues that if they needed to put in a turn bay, it would probably add another 14 feet.

Bob asked for other comments. None were offered.

OTHER BUSINESS

Lake Mary Ronan and discrepancies in the zoning regulations were touched upon, as were aspects of the process for updating regulations. The status of the lakeshore regulation update was also touched upon. Some upcoming items were mentioned. Karl and Robert, the new planners, each gave some of his background for the Board.

Motion made by John Fleming, and seconded by Steve Rosso, to adjourn. Motion carried, all in favor. Meeting adjourned at 8:30 pm.